

IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF  
TENNESSEE WESTERN DIVISION

FILED BY *[Signature]* D.C.  
05 DEC 29 AM 7:27

JUDY GROCE, Individually and as  
Executrix of the ESTATE OF ROBERT  
S. MARTIN, and on behalf of the  
children, grandchildren, beneficiaries,  
heirs, brothers and sisters of  
ROBERT S. MARTIN, and the  
ESTATE OF ROBERT S. MARTIN,

Plaintiff,

v.

KINDRED NURSING CENTERS  
LIMITED PARTNERSHIP, d/b/a  
SPRING GATE REHABILITATION  
AND HEALTHCARE CENTER,

Defendant.

CAUSE NO. 2:05-cv-02367-BBD-sta

**MOTION GRANTED**

DATE: 12-23-2005

*[Signature]*  
**BERNICE BOUIE DONALD**  
U.S. DISTRICT JUDGE

**DEFENDANT'S MOTION AND MEMORANDUM OF LAW TO STAY ALL  
PROCEEDINGS PENDING OUTCOME OF PRIVATE MEDIATION**

Defendant, Kindred Nursing Centers Limited Partnership, d/b/a Spring Gate  
Rehabilitation and Healthcare Center (hereinafter "Spring Gate"), by and through counsel, and  
pursuant to *Federal Rules of Civil Procedure* Rule 7 and Rule 40, respectfully moves the Court  
to enter an Order staying all proceedings in this case pending the outcome of private mediation.

According to Rule 40 of the *Federal Rules of Civil Procedure*, United States District  
Courts have discretion regarding the placement of actions on their trial calendars. Plaintiff's  
counsel has indicated that he will not oppose Defendant's Motion to Stay All Proceedings  
Pending Outcome of Private Mediation. Furthermore, entering the Agreed Order will allow the  
Court to retain jurisdiction over this matter while simultaneously preserving judicial resources by  
providing the parties an opportunity to resolve the dispute without the Court's intervention.

Should the parties fail to resolve the dispute via private mediation, counsel for Defendant will

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with Rule 58 and/or 79(a) FRCP on 12/29/05

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notify the Court within fourteen (14) days of the mediation and request that the Court conduct a Scheduling Conference pursuant to Rule 16 of the *Federal Rules of Civil Procedure*.

As the parties have conferred and have determined that this matter is appropriate for private mediation, Defendant respectfully requests that the Court enter the Agreed Order Staying All Proceedings Pending Outcome of Private Mediation submitted with Defendant's motion.

A Certificate of Consultation with opposing counsel and Proposed Agreed Order are submitted in accordance with Local Rule 7.2.

Respectfully submitted,

CHAMBLISS, BAHNER & STOPPDEL, P.C.

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Honorable Bernice Donald  
US DISTRICT COURT